

III. REMARKS

The Examiner is thanked for extending the courtesy of a telephone interview on January 10, 2007. During this interview it was pointed out that the periods were not deleted from claims 1 and 12 in the last response. Thus these claims are not objectionable.

Claims 1 and 12 have been rejected under 35 U.S.C. 112, first paragraph, as based upon a non-enabling disclosure. The Examiner states that it is unclear what happens after the query is received and processed and cites In re Mayhew, 188 USPQ 356.

Mayhew concerned a disclosure which stated "This is practicable because of special cooling apparatus, specially located". The CCPA held claims which did not recite the cooling apparatus or their location invalid. Here, there is nothing in the description which states that what happens after the query is received and processed makes the claimed invention practicable. Thus it is respectfully submitted that Mayhew is irrelevant to the present facts.

Further, the last recited limitation of displaying the information to a user does make it clear what happens to the information after it is received and processed. Hence claims 1 and 12 do define a complete method (claim 1) or system (claim 12). There is no need to again recite the connection server. Also, what the user does with the information is not critical or essential to the practice of the claimed invention since there are many uses for the information.

The fifth limitation has been amended as requested.

Thus the rejection of claims 1 and 12 under 35 U.S.C. 112, first paragraph, should be withdrawn.

Claims 1, 3-6, 8-10, 14-18, 20 and 22 are rejected under 35 U.S.C. 112, second paragraph.

The claims have been amended as requested and the conditional statements in claims 9, 19 and 21 deleted. Regarding overlapping statutory classes of invention, see below.

Thus the rejection of the above claims on 35 U.S.C. 112, second paragraph, should be withdrawn.

Claims 1- 11 are rejected under 35 U.S.C. 101 as reciting two different classes of invention. The Examiner cites Ex parte Lyell, 14USPQ2d 1548.

This case involved a claim of the form:

2. A (device)...and method for using same comprising:
(reciting elements of the device),
and further comprising the steps of:
(reciting steps of the method).

Understandably, this was held invalid since it positively recites both device elements and method steps, which makes infringement determination (particularly contributory infringement) difficult.

It is respectfully submitted that the present claims are in a completely different form. Method claim 1 only positively recites method steps. Apparatus elements are only inferentially recited. Thus claims 1-11 are directed only to a method.

The fact that claims 1-11 inferentially recite apparatus elements has long been accepted. This form does not make infringement determination difficult. Indeed, if such elements were left out of claims 1-11, they might very well be rejected under 35 U.S.C. 112, second paragraph, as being indefinite. In this regard please see in the cited

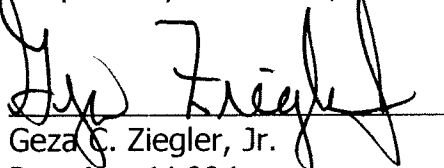
art: Kenner (claims 14, 30, 56, and 57), Buss (claims 14 and 18), Dedrick '787 (claim 1), Dedrick '884 (claim 1) and Kari (claim 1). While it is true that if the USPTO made a mistake in the past it should not do so again, these patents provide at least some guide as to what is proper in method claims.

Thus the rejection of claims 1-11 under 35 U.S.C. 101 should be withdrawn.

For the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza C. Ziegler, Jr.
Reg. No. 44,004

2 Feb 2007
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

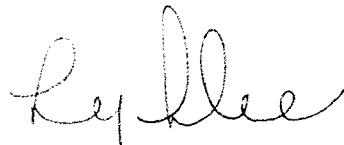
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Response to the Office Action mailed November 6, 2006

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I hereby certify that this correspondence is being transmitted electronically, on the date indicated below, addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 6 February 2007

Signature: 
Lisa Shimizu
Person Making Deposit